IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.52 OF 1996

The Commissioner of Income Tax
Nasik .. Applicant.

V/s.

Godawari Manar SSK Ltd., .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 26TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case the ITAT relying on the ITAT special Bench's decision in the case of Chatrapati SSK Ltd., reported in 198-ITR-78 was right in deleting the following additions by holding that the various funds and deposits are not trading receipt of the assessee ?
>
> 1. Non refundable deposits Rs.1113873
> 2. Cane development fund Rs. 152249
> 3. Factory edu. fund collection Rs. 111287
> 4. Late Y.B. Chavan Memo fund Rs. 152249

2. In so far as all other items for both the except cane development fund is concerned, the issue

is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as Cane Development Fund is concerned, the issues will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra) as such the said issue stands remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)